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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2378/2008-2381/2008 - EX[DB] & E/S/2373-2376/08-EX Date 03/02/2009

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S CONTROLS & SWITCHGEARS CONTRACTORS LTD.
C-58, PHASE-II, NOIDA, (U.P.)

M/S CONTROLS & SWITCHGEARS CONTRACTORS LTD. Appellant

Vs

C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 73-76/09 & S.O.NO.113-116/09- **EX** dated 22-1-09

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   C.C.E. NOIDA
   B-123, SECTOR 5, NOIDA.
2. Adv. / Consult
   MR.P.K.SAHU
   A-345(F F) DEFENCE COLONY,N.DELHI -24

3 C.D.R
~~4 J.C.D.R~~
5 Bar association, CESTAT, New Delhi
6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7 M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3
8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 Nidheshak publications, I.P.Estate, new Delhi
11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai
13 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

17. SH. PRADEEP GARG, DEPUTY MANAGER (COMMERCIAL)
    M/S CONTROLS & SWITHCHGEARS CONTRACTORS LTD., C-58, PHASE-II, NOIDA, (U.P.)
18. SH. VIVEK GARG, DEPUTY GENERAL MANAGER,
    M/S CONTROLS & SWITCHGEARS CONTRACTORS LTD., C-58, PHASE-II, NOIDA, (U.P.)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Stay 2373 to 2376/08, E/Appeal No.2378 to 2381/2008 -Ex(Br)

(Arising out of order in appeal No. 90-93/CE/Noida/08 dated 27.8.08passed by the Commissioner of Central Excise (Appeals),Noida)

M/s Controls & Switchgears Contractors Ltd — Appellant (Rep. by Shri P.K. Sahu, Advocate)

Vs

CCE, Noida — Respondent (Rep. by Shri S.N. Srivastav, DR)

Coram: Hon'ble Mr.D.N. Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Date of Hearing: 13.1.09

STAY Order No. 113 - 116 /2009 —/~~2008~~-Ex(BR)
FINAL ORDER No. 73 - 76 / 2009 - Ex (BR)
Per D.N. Panda:

Learned Counsel Shri P.K. Sahu submits that these four appeals were thrown at the threshold which has resulted in denial of justice. The reason for this was that they failed to comply with the stay order. He further submits that the appellants consider[illegible] that they were covered by the judgment of the Tribunal in the case of Gharda Chemicals Ltd Vs CCE Pune II reported in 2006 (196) ELT 325 and Lakshmi Synthetic Machinery Manufacturers Ltd Vs CCE Coimbatore reported in 2005 (184) ELT 109. They made an application for modification of stay order. But the learned Commissioner (Appeals) observing that there is no evidence adduced for modification of earlier stay order, that application was dismissed. So also all the four appeals were dismissed. He further submits that the learned adjudicating authority paid a deaf ear to the aforesaid judgments. He therefore, submits that when the appellant is covered by these two decisions of the Tribunal, there is no reason to deny justice to the appellants. Therefore, the matter needs to go back to the learned appellate authority to hear the appeal. The appellant is hopeful to succeed in these matters.

The learned DR submits that the appellants are not entitled to exemption.

Heard both sides and also perused the record. We observe that the appeals of appellants go to the root of the matter. The cited decisions were not given due weightage. Therefore, we direct the learned Commissioner (Appeals) to hear the matter on merits. Since the matter appears to have been dealt with by two orders of the Tribunal, the authority even at the stage of stay should have considered the matter. Accordingly we remand all the four appeals to the learned Commissioner to do justice to the appellants. So, also all the four stay applications are disposed of in view of the aforesaid reasons of decision.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

MPS*